

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

L.H., a minor, by and through
Next Friend, ASHLYN HENRY

Plaintiff,

v.

WENTZVILLE R-IV SCHOOL DISTRICT

MEGAN SUTTON, Ed.D.

JANE DOE 1,

JANE DOE 2,

Defendants.

Case No.

(Removed from the Circuit Court
of St. Charles County, Missouri, Case
No. 2311-CC00415),

JURY TRIAL DEMANDED

NOTICE OF REMOVAL

Defendant, Wentzville R-IV School District (“WSD”) hereby removes the above-captioned action, Cause No. 2311-CC00415, currently pending in the Circuit Court of the County of St. Charles, Missouri 11th Judicial Circuit, to the United States District Court for the Eastern District of Missouri (Eastern Division). Removal is based on 28 U.S.C. §§ 1331, 1441, and 1446.

As grounds for removal, Defendant states the following:

1. On or about April 21, 2021, L.H., a minor, by and through her Next Friend, Ashlyn Henry (hereinafter “Plaintiff”) filed a Petition in the Circuit Court of the County of St. Charles, Missouri. The state court action was assigned Cause No. 2311-CC00415. (See Exhibit A, State Court File).

2. A summons was issued for service upon Defendant WSD. On or about May 23, 2023, the St. Charles County Sheriff's Department served WSD. The remaining Defendants have not yet been served per the Court's records.

3. Defendant WSD was properly served and accepted service at its place of business.

4. Given that Defendant WSD accepted service of Plaintiff's Petition on May 23, 2023, this Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446.

5. Pursuant to Local Rule 2.03, a complete copy of the state court file and docket sheet is attached hereto as Exhibit A.

6. Counts I and II of Plaintiff's Petition are comprised of claims arising out of the same set of facts so as to form the same case or controversy alleging a denial of benefits pursuant to the Rehabilitation Act and reasonable accommodation pursuant to the Americans with Disabilities Act. Plaintiff specifically brings her claims as: "Count I - §504 of the Rehabilitation Act Defendant WSD" and "Count II – Americans with Disabilities Act Defendant WSD." (*See Petition*, generally, and Counts I and II).

7. Accordingly, this matter is properly removable because this Court has original jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1343 because the action includes claims arising under the Constitution, laws, or treaties of the United States.

8. Counts III – V of Plaintiff's Petition allege state law claims of Negligence (Count III), Battery (Count IV), and Failure to Provide Treatment (Count V) which arise out of the same set of facts as Counts I and II.

9. Given the federal claims at issue in this lawsuit, this Court also has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367. All state law claims

raised by Plaintiffs are so related to the federal claims at issue as to form part of the same case or controversy.

10. This matter has been removed to the proper Court because this Court is part of the “district and division embracing the place where” this action was filed — St. Charles County, Missouri. 28 U.S.C. § 1446(a).

11. The original Petition (which is included in the complete state court file also submitted herewith), attached hereto as Exhibit A, contains all information needed for this Court to determine that removal is proper.

12. Accompanying and attached to this Notice of Removal is a Civil Cover Sheet for filing in this Court.

13. Also accompanying and attached to this Notice of Removal is an Original Filing Form.

14. Defendant has given written notice to Plaintiff of the filing of this Notice of Removal and will file a copy of this Notice of Removal with the Clerk of the Circuit Court of St. Charles County, State of Missouri, as required by 28 U.S.C. § 1446.

WHEREFORE, this action should proceed in the United States District Court for the Eastern District of Missouri, as an action properly removed thereto.

Respectfully submitted,

REICHARDT NOCE & YOUNG LLC

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CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of June, 2023, a true and correct copy of the foregoing was filed electronically with the Clerk of Court via the Court's ECF electronic filing system, and served by e-mail to:

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/s/ Matthew H. Noce